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13 Attorneys for Defendant sued as NARCONON
14 FRESH START d/b/a RAINBOW CANYON
15 RETREAT

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18 UNITED STATES DISTRICT COURT
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20 DISTRICT OF NEVADA

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28 LORI WINCHELL, a Nevada Citizen;
RYAN Winchell, a Nevada Citizen; and
JILLENE WINCHELL, a Nevada Citizen

Plaintiffs,

vs.

NARCONON FRESH START d/b/a
RAINBOW CANYON RETREAT, a
California Corporation; ASSOCIATION FOR
BETTER LIVING AND EDUCATION
INTERNATIONAL; NARCONON
INTERNATIONAL; and DOES 1-100, ROE
Corporations I-X, inclusive,

Defendants.

CASE NO. 2:14-cv-00851-MMD-CWH

**DEFENDANT NARCONON FRESH
START D/B/A RAINBOW CANYON
RETREAT'S ANSWER TO PLAINTIFFS'
COMPLAINT**

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38 COMES NOW, Defendant NARCONON FRESH START, d/b/a RAINBOW CANYON
39 RETREAT, a California Corporation" (hereinafter Defendant or "FRESH START") by and
40 through its counsel LEWIS BRISBOIS BISGAARD & SMITH, LLP, and hereby submits its
41 Answer to the Complaint filed by LORI WINCHELL, a Nevada Citizen; RYAN WINCHELL, a
42 Nevada Citizen; and JILLENE WINCHELL, a Nevada Citizen (hereinafter, "Plaintiff" or
43 "WINCHELL") and alleges and states as follows:

I.

PARTIES

1. Referring to the allegations contained in Paragraph 1, Defendant is without information sufficient to form a belief that would allow it to admit or deny said allegations.

2. Referring to the allegations contained in Paragraph 2, Defendant admits said allegations.

3. Referring to the allegations contained in Paragraph 3, Defendant admits said allegations.

4. Referring to the allegations contained in Paragraph 4, Defendant denies said allegations.

5. Referring to the allegations contained in Paragraph 5, Defendant is without information sufficient to form a belief that would allow it to admit or deny said allegations.

6. Referring to the allegations contained in Paragraph 6, Defendant denies said allegations.

7. Referring to the allegations contained in Paragraph 7, Defendant admits said allegations.

8. Referring to the allegations contained in Paragraph 8, Defendant denies said allegations.

9. Referring to the allegations contained in Paragraph 9, Defendant is without information sufficient to form a belief that would allow it to admit or deny said allegations

10. Referring to the allegations contained in Paragraph 10, Defendant asks the Court to strike the paragraph on the basis that it is an improper pleading of “doe” allegations. In the event the Court does not strike Paragraph 10, insofar as it is intended to pertain to FRESH START, Defendant denies said allegations.

II.

JURISDICTION AND VENUE

11. Referring to the allegations contained in Paragraph 11, Defendant denies that WINCHELL has standing to sue under 28 U.S.C. Section 1332 and instead alleges that the state

1 law claims must be dismissed for lack of subject matter jurisdiction. Defendant denies that any
2 Plaintiff's damages will exceed \$75,000, based upon information and belief.

3 12. Referring to the allegations contained in Paragraph 12, Defendant admits said
4 allegations to the extent they are asserted to establish the jurisdiction and venue of the Court. To
5 the extent that any allegation in Paragraph 12 asserts any cause of action against this Defendant,
6 said allegations are specifically denied.

7 **III.**

8 **FACTUAL ALLEGATIONS**

9 13. Referring to allegations in Paragraph 13, Defendant has no knowledge upon which
10 to admit or deny the allegations of said Paragraph and therefore denies them, except that FRESH
11 START admits that a telephone conversation occurred between LORI WINCHELL and Fresh
12 Start Intake Counselor Tonya Lawson (Lawson) at some time prior to June 25, 2012 concerning
13 RYAN WINCHELL.

14 14. Referring to the allegations made in Paragraph 14, Defendant denies the Paragraph
15 and specifically denies that Lawson made any false representations of fact to LORI WINCHELL
16 regarding RYAN WINCHELL'S admission to the Fresh Start Program.

17 15. Referring to the allegations contained in Paragraph 15, Defendant denies the
18 Paragraph and specifically denies that it made any false representation to Plaintiffs that RYAN
19 WINCHELL would be under the care of medical professionals such as doctors or nurses at
20 FRESH START.

21 16. Referring to the allegations contained in Paragraph 16, Defendant denies the
22 Paragraph as written. Defendant specifically denies that Lawson made any false representation to
23 Plaintiffs with regard to either "substance abuse counseling" or "highly trained addictions
24 counselors" as alleged in the Paragraph.

25 17. Referring to the allegations in the first sentence of Paragraph 17, Defendant denies
26 that Lawson stated that the FRESH START program had a "76% success rate" and denies that
27 Lawson made any false representation to any Plaintiff as stated in the Paragraph.

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1 18. Referring to the allegations in Paragraph 18, Defendant denies said allegations and
2 that Lawson made any false representation to any WINCHELL Plaintiff as alleged.

3 19. Referring to the allegations in Paragraph 19, Defendant denies said allegations and
4 that Lawson made any false representation to any WINCHELL Plaintiff as alleged.

5 20. Referring to the allegations in Paragraph 20, Defendant denies that that Lawson
6 made any false representation to any WINCHELL Plaintiff as stated in the Paragraph. Defendant
7 is without information sufficient to form a belief that would allow it to admit or deny the
8 remaining allegations in the Paragraph.

9 21. Referring to the allegations in Paragraph 21, Defendant admits that LORI
10 WINCHELL paid half of RYAN WINCHELL'S program fees by credit card but denies the
11 balance of the Paragraph.

12 22. Referring to the allegations in Paragraph 22, Defendant denies that Exhibit A is the
13 contract between these parties and alleges instead that the misassembled document, as presented,
14 includes the Rainbow Canyon Retreat Consumer Service Policy Statement and a Responsible
15 Party Payment Agreement which are neither dated nor signed. Defendant specifically denies that
16 Exhibit A is a contract between these parties.

17 23. Referring to the allegations in Paragraph 23, the Paragraph is vague and
18 ambiguous, precluding a response. The document marked Exhibit A is the best evidence of its
19 contents.

20 24. Referring to the allegations in Paragraph 24, Defendant denies that Exhibit A is a
21 contract and denies the balance of the allegations in the Paragraph.

22 25. Referring to the allegations in Paragraph 25, this Defendant denies said allegations.

23 26. Referring to the allegations in Paragraph 26, Defendant denies the Paragraph for
24 lack of information and belief.

25 27. Referring to the allegations in Paragraph 27, this Defendant is without information
26 or belief upon which to admit or deny the allegations and for reason denies the Paragraph as
27 written.

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1 28. Referring to the allegations in Paragraph 28, Defendant is without information or
 2 belief upon which to admit or deny the allegations and for reason denies the Paragraph as written.

3 29. Referring to the allegations in Paragraph 29, the Paragraph is vague and
 4 ambiguous, precluding a meaningful response.

5 30. Referring to the allegations in Paragraph 30, Defendant denies said allegations.

6 31. Referring to the allegations in Paragraph 31, this Defendant denies said allegations.

7 32. Referring to the allegations in Paragraph 32, this Defendant denies said allegations.

8 33. Referring to the allegations in Paragraph 33, this Defendant denies said allegations.

9 34. Referring to the allegations in Paragraph 34, Defendant denies said allegations.

10 35. Referring to the allegations in Paragraph 35, Paragraph 35 is based on inadmissible
 11 hearsay so that no response is required. To the extent a response may be deemed required, the
 12 Paragraph is denied.

13 36. Referring to the allegations in Paragraph 36, Paragraph 36 is based on the pleader's
 14 legal conclusion rather than facts which must be admitted or denied. Should a response be deemed
 15 required, said allegations are denied.

16 37. Referring to the allegations in Paragraph 37, as to the first sentence of the
 17 paragraph, Defendant denies the allegations for lack of information and belief. As to the second
 18 sentence, Defendant denies the sentence and specifically denies the allegation that "Fresh Start
 19 does not believe in the use of psychologists or therapists."

20 38. Referring to the allegations in Paragraph 38, Defendant admits that its sauna
 21 program is part of the New Life Detoxification Program and admits that use of Niacin and
 22 "vitamin bombs" were part of its treatment program. Defendant further admits that exercise is
 23 utilized at times prior to entering the sauna. Defendant specifically denies the balance of the
 24 paragraph and specifically denies that FRESH START "had RYAN WINCHELL ingest extreme
 25 doses of Niacin as part of the sauna program."

26 39. Referring to allegations in Paragraph 39, the paragraph is admitted, but the
 27 inference in the Paragraph that medical oversight of RYAN WINCHELL in the sauna was
 28 medically required is denied.

1 40. Referring to allegations in Paragraph 40, Defendant denies said allegations.

2 41. Referring to allegations in Paragraph 41 said Paragraph does not contain any
3 material facts which require a response. To the extent a response may be deemed required,
4 Defendant asserts that it is without knowledge or information to address the cited testimony
5 without being provided a full transcript. The pages provided in the referenced Exhibit B are not
6 verified by the witness, nor is the court reporter's certificate provided, without which the
7 testimony is inadmissible for any purpose so that the Court should strike this Paragraph.

8 42. Referring to the allegations contained in Paragraph 42, Paragraph 42 is based upon
9 inadmissible hearsay so that no meaningful response can be given. To the extent that a response
10 may be deemed required, the paragraph is denied.

11 43. Referring to the allegations contained in Paragraph 35, Defendant denies said
12 allegations .

13 44. Referring to the allegations contained in Paragraph 44, Defendant denies said
14 allegations on the grounds that the Paragraph uses the undefined term "Narconon" and Defendant
15 does not know to which entity this refers. Defendant further states that the unnumbered paragraph
16 which follows at page 7, line 19 through page 8, line 8, does not contain any allegations which
17 require a response. To the extent a response may be deemed required, Defendant asserts that it is
18 without knowledge or information to address the cited testimony without being provided a full
19 transcript. The pages provided in the referenced Exhibit B are not verified by the witness, nor is
20 the court reporter's certificate provided, without which the testimony is inadmissible for any
21 purpose so that the Court should strike this Paragraph.

22 45. Referring to the allegations contained in Paragraph 45, Defendant denies the
23 paragraph generally and denies that it "... advertised a 76% success rate to Plaintiffs" and denies
24 that there is any such reference in Plaintiff's Exhibit A.

25 46. Referring to the allegations contained in Paragraph 46, Defendant denies said
26 allegations generally and on the grounds that the Paragraph uses the undefined term "Narconon"
27 and Defendant does not know to which entity this refers.

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1 47. Referring to the allegations contained in Paragraph 47, this Defendant denies said
2 allegations generally and on the grounds that the Paragraph uses the undefined term “Narconon”
3 and Defendant does not know to which entity this refers.

4 48. Referring to the allegations contained in Paragraph 48, Defendant is without
5 information or knowledge upon which to base a response to Paragraph 48 and, for that reason,
6 denies said allegations.

7 49. Referring to the allegations contained in Paragraph 41, this Defendant denies said
8 allegations.

RESPONSES TO CLAIMS OF ALTER EGO LIABILITY

10 50. In response to Paragraph 50, Defendant incorporates by reference its responses to
11 paragraphs 1-49 as if fully set forth herein.

12 51. Referring to the allegations contained in Paragraph 51, this Defendant denies said
13 allegations.

14 52. Referring to the allegations contained in Paragraph 52, this Defendant denies said
15 allegations.

16 53. Referring to the allegations contained in Paragraph 53, this Defendant denies said
17 allegations.

18 54. Referring to the allegations contained in Paragraph 54, this Defendant denies said
19 allegations.

20 55. Referring to the allegations contained in Paragraph 55, this Defendant denies said
21 allegations.

RESPONSES TO FIRST CLAIM FOR RELIEF

(BREACH OF CONTRACT)

24 56. In response to Paragraph 56, Defendant incorporates by reference its responses to
25 Paragraphs 1-55 as if fully set forth herein.

26 57. Referring to the allegations contained in Paragraph 57, the Paragraph denies said
27 allegations. Defendant specifically denies that Exhibit A is a contract between Plaintiffs and
28 FRESH START. Exhibit A speaks for itself.

58. Referring to the allegations contained in Paragraph 58, Defendant denies said allegations.

3 59. Referring to the allegations contained in Paragraph 59, Defendant denies said
4 allegations.

RESPONSES TO SECOND CLAIM FOR RELIEF

(FRAUD)

60. In response to Paragraph 60, Defendant incorporates by reference its responses to Paragraphs 1-59 as if fully set forth herein.

9 61. Referring to the allegations contained in Paragraph 61, Defendant denies making
10 any false statements as alleged.

11 62. Referring to the allegations contained in Paragraph 62, the Paragraph states the
12 legal conclusions of the pleader rather than facts which must be admitted or denied. To the
13 extent a response may be required, said allegations are denied.

14 63. Referring to the allegations contained in Paragraph 63, Defendant is without
15 information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph
16 63 and, for that reason, denies them.

17 64. Referring to the allegations contained in Paragraph 64, Defendant denies said
18 allegations.

RESPONSES TO THIRD CLAIM FOR RELIEF

(NEGLIGENCE)

21 65. In response to Paragraph 65, Defendant incorporates by reference its responses to
22 Paragraphs 1-64 as if fully set forth herein.

23 66. Referring to the allegations contained in Paragraph 66, said Paragraph states the
24 pleader's legal conclusions rather than facts which must be admitted or denied. To the extent as
25 response to Paragraph 66 may be required, said allegations are denied.

26 67. Referring to the allegations contained in Paragraph 67, Defendant denies said
27 allegations.

68. Referring to the allegations contained in Paragraph 68, Defendant denies said allegations.

RESPONSES TO FOURTH CLAIM FOR RELIEF

(INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS)

69. In response to Paragraph 69, Defendant incorporates by reference its responses to Paragraphs 1-68 as if fully set forth herein.

70. Referring to the allegations contained in Paragraph 70, Defendant denies said allegations.

9 71. Referring to the allegations contained in Paragraph 71, Defendant denies said
10 allegations.

RESPONSES TO FIFTH CLAIM FOR RELIEF

(NEGLIGENCE MISREPRESENTATION)

13 72. In response to Paragraph 72, Defendant incorporates by reference its responses to
14 Paragraphs 1-71 as if fully set forth herein.

15 73. Referring to the allegations contained in Paragraph 73, Defendant denies said
16 allegations.

17 74. Referring to the allegations contained in Paragraph 74, the Paragraph states the
18 legal conclusions of the pleader rather than facts which must be admitted or denied. To the extent
19 that a response may be required, all said allegations are denied, except that Defendant admits that
20 Fresh Start Intake Counselor Tonya Lawson spoke with LORI WINCHELL by telephone prior to
21 June 25, 2012 about RYAN WINCHELL.

22 75. Referring to the allegations contained in Paragraph 75, Defendant is without
23 information or knowledge as to what representations Plaintiffs relied upon in making the decision
24 to enroll RYAN WINCHELL in the program but denies that any false statement allegedly made
25 induced Plaintiffs to admit RYAN WINCHELL to the program and denies that any false statement
26 was made.

27 76. Referring to the allegations contained in Paragraph 76, Defendant denies said
28 allegations.

RESPONSES TO SIXTH CLAIM FOR RELIEF
(NEGLIGENCE *PER SE*)

3 77. In response to Paragraph 77, Defendant incorporates by reference its responses to
4 Paragraphs 1-76 as if fully set forth herein.

5 78. Referring to the allegations contained in Paragraph 78, the first sentence of the
6 paragraph states the pleader's legal conclusions rather than facts which must be admitted or
7 denied. To the extent the first sentence of Paragraph 70 may be deemed to state facts which
8 require a response, it is denied. Defendant specifically denies that NRS 630.160 applies to this
9 case and/or that a medical license was required of FRESH START employees by NRS 630.160 as
10 alleged in the Paragraph or that a medical license is required to prescribe Niacin or vitamins. As
11 to the second sentence of Paragraph 80, Defendant denies said allegations.

12 79. Referring to the allegations contained in Paragraph 79, the Paragraph states the
13 pleader's legal conclusions rather than facts which must be admitted or denied. To the extent a
14 response may be required, said allegations are denied.

15 80. Referring to the allegations in Paragraph 80, said allegations are denied. Defendant
16 specifically denies that WINCHELL'S admission to the FRESH START program subjected him
17 to either physical or mental injuries and/or that he suffered any damage.

RESPONSE TO SEVENTH CLAIM FOR RELIEF

(CIVIL RICO FOR MAIL AND WIRE FRAUD, 18 U.S.C. 1964(c))

20 81. In response to Paragraph 81, Defendant incorporates by reference its responses to
21 paragraphs 1-80 as if fully set forth herein.

22 82. Referring to the allegations contained in Paragraph 82, the Paragraph states the
23 pleader's legal conclusions rather than facts which must be admitted or denied. To the extent that
24 a response may be required, said allegations are denied.

25 83. Referring to the allegations contained in Paragraph 83, the Paragraph states the
26 pleader's legal conclusions rather than facts which must be admitted or denied. To the extent a
27 response may be required, said allegations are denied.

1 84. Referring to the allegations contained in Paragraph 84, the Paragraph is improperly
 2 based on inadmissible hearsay, speculation, conjecture, and the pleader's legal conclusions. No
 3 response is required. To the extent a response may be required, said allegations are denied.

4 85. Referring to the allegations contained in Paragraph 85, the Paragraph is improperly
 5 based on inadmissible hearsay, speculation, conjecture, and the pleader's legal conclusions. No
 6 response is required. To the extent a response may be required, said allegations are denied.

7 86. Referring to the allegations contained in Paragraph 86, the Paragraph is improperly
 8 based on inadmissible hearsay, speculation, conjecture, and the pleader's legal conclusions. No
 9 response is required. To the extent a response may be required, said allegations are denied. As to
 10 Exhibit C attached to the Complaint, the Exhibit's contents are neither properly documented nor
 11 authenticated by the operator of the website, nor does the totality of the material in the website
 12 from which they were drawn support the conclusions set out in the Paragraph.

13 87. Referring to the allegations contained in Paragraph 87, Defendant denies said
 14 allegations.

15 88. Referring to the allegations in Paragraph 88, Defendant denies said allegations.

16 **RESPONSES TO EIGHTH CLAIM FOR RELIEF**

17 **(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING)**

18 89. In response to Paragraph 89, Defendant incorporates by reference its responses to
 19 Paragraphs 1-88 as if fully set forth herein.

20 90. Referring to the allegations contained in Paragraph 90, the Paragraph states the
 21 pleader's legal conclusion rather than facts which must be admitted or denied. To the extent the
 22 Paragraph may be deemed to state facts which require a response, said allegations are denied.

23 91. Referring to the allegations contained in Paragraph 91, this Defendant denies said
 24 allegations. Defendant is without information or knowledge sufficient to state a belief as to the
 25 truth of the allegation that Plaintiffs had "justified expectations" as described in the Paragraph,
 26 and, for that reason denies said allegations.

27 92. Referring to the allegations in Paragraph 92, Defendant denies said allegations.

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RESPONSES TO NINTH CLAIM FOR RELIEF

(CIVIL CONSPIRACY)

3 93. In response to Paragraph 93, Defendant incorporates by reference its responses to
4 Paragraphs 1-92 as if fully set forth herein.

5 94. Referring to the allegations contained in Paragraph 94, Defendant denies said
6 allegations.

7 95. Referring to the allegations contained in Paragraph 95, Defendant denies said
8 allegations.

9 96. Referring to the allegations contained in Paragraph 96, Defendant denies said
10 allegations.

RESPONSES TO TENTH CLAIM FOR RELIEF
(FRAUD CLAIMS PURSUANT TO NRS 41.600)

13 97. In response to Paragraph 97, Defendant incorporates by reference its responses to
14 Paragraphs 1-96 as if fully set forth herein.

15 98. Referring to the allegations contained in Paragraph 98, the Paragraph states the
16 pleader's legal conclusions rather than facts which must be admitted or denied. To the extent a
17 response may be required, Defendant denies said allegations.

18 99. Referring to the allegations contained in Paragraph 99, the Paragraph states the
19 pleader's legal conclusions rather than facts which must be admitted or denied. To the extent a
20 response may be required; Defendant denies said allegations. Defendant specifically denies that
21 the conduct described in the Paragraph states a cause of action which can be pursued under NRS
22 41.600 and/or NRS 598.0915 through 598.205, inclusive as a private cause of action.

23 100. Referring to the allegations contained in Paragraph 100, the Paragraph states the
24 legal conclusions of the pleader rather than facts that must be admitted or denied. To the extent a
25 response may be required, Defendant denies said allegations.

26 101. Referring to the allegations contained in Paragraph 101, Paragraph 101 states the
27 legal conclusion of the pleader rather than facts which must be admitted or denied. To the extent

1 that Paragraph 101 may be deemed to contain facts which require a response, Defendant denies
2 said allegations.

3 102. Referring to the allegations contained in Paragraph 102, Defendant denies the
4 Paragraph as written and specifically denies that Plaintiffs are entitled to state claims for relief
5 against this Defendant under NRS Ch. 41.600; denies that Plaintiffs are entitled to recover
6 attorney's fees and costs of this action against this Defendant; denies that Plaintiffs are entitled to
7 an award of damages against this Defendant; denies that Plaintiffs are entitled to injunctive relief
8 as prayed.

9 **FIRST AFFIRMATIVE DEFENSE**

10 Plaintiffs' Complaint fails to state a claim against answering Defendant upon which relief
11 can be granted.

12 **SECOND AFFIRMATIVE DEFENSE**

13 This Honorable Court lacks subject matter jurisdiction.

14 **THIRD AFFIRMATIVE DEFENSE**

15 Plaintiffs are not the real parties in interest entitled to pursue recovery of all categories of
16 damages claims in the Complaint.

17 **FOURTH AFFIRMATIVE DEFENSE**

18 Plaintiffs' claims are barred or subject to reduction by virtue of Plaintiffs' comparative
19 fault, including the assumption of the risk of RYAN WINCHELL of which such assumption or
20 comparative fault is imputed upon all Plaintiffs which either reduces or bars all such claims.

21 **FIFTH AFFIRMATIVE DEFENSE**

22 Plaintiffs' claims and damages, if any, are attributable to intervening or subsequent events
23 for which this Defendant had no right of control.

24 **SIXTH AFFIRMATIVE DEFENSE**

25 That some or all of the Plaintiffs' claimed non-economic damages, are not recoverable
26 damages pursuant to the economic loss doctrine as set forth in the applicable law of the State of
27 Nevada.

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SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs are estopped from asserted claims for damages due to the conduct of RYAN WINCHELL.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs are barred from asserting claims for damages based upon the doctrine of unclean hands.

NINTH AFFIRMATIVE DEFENSE

Any verdict or judgment rendered against Defendant is subject to and must be reduced by those amounts that have been, or will, with reasonable certainty, replace or indemnify Plaintiffs, in whole or in part, for any past or future claimed economic loss, from any collateral source such as Social Security or employee benefit programs.

TENTH AFFIRMATIVE DEFENSE

Plaintiffs may have failed to mitigate their damages as required by law.

ELEVENTH AFFIRMATIVE DEFENSE

Defendant's duties to Plaintiffs, if any, were satisfied and discharged due to the conduct of RYAN WINCHELL.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to plead any claims of fraud with particularity as required by law.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims and damages, if any, are barred under the defense of frustration of purpose.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims and damages, if any, were the result of RYAN WINCHELL'S unrelated, pre-existent or subsequent conditions unrelated to Defendant's treatment.

FIFTEENTH AFFIRMATIVE DEFENSE

The injuries, if any, allegedly suffered by Plaintiffs as set forth in their Complaint were caused in whole or in part by the negligence of a third party or third parties over which FRESH START had no control.

SIXTEENTH AFFIRMATIVE DEFENSE

1 The damages, if any, alleged by Plaintiffs were not the result of any acts of omission,
 2 commission, or negligence, but were the result of a known risk, which was consented to by
 3 Plaintiffs.

SEVENTEENTH AFFIRMATIVE DEFENSE

4 That it has been necessary for FRESH START to employ the services of an attorney to
 5 defend this action and a reasonable sum should be allowed FRESH START for attorneys' fees,
 6 together with costs of suit incurred herein.

EIGHTEENTH AFFIRMATIVE DEFENSE

7 FRESH START is not jointly liable with any other entities that may or may not be named
 8 in this action, and will only be severally liable for that portion of Plaintiffs' claim that represents
 9 the percentage of negligence attributable to FRESH START, if any.

NINETEENTH AFFIRMATIVE DEFENSE

10 Plaintiffs' claims for punitive damages are limited or prohibited by Nevada law and by the
 11 Constitution of the United States.

TWENTIETH AFFIRMATIVE DEFENSE

12 At all times mentioned herein, FRESH START acted reasonably and in good faith with
 13 regard to the acts and transactions which are the subject of this lawsuit.

TWENTY-FIRST AFFIRMATIVE DEFENSE

14 All risks and hazards involved in the factual situation described in the Complaint were
 15 known to Plaintiffs, and said Plaintiffs voluntarily assumed said risks and dangers.

TWENTY-SECOND AFFIRMATIVE DEFENSE

16 Any claim of Plaintiffs is barred by laches of Plaintiffs in pursuing such claim.

TWENTY-THIRD AFFIRMATIVE DEFENSE

17 Any claim of Plaintiffs is barred by the doctrine of waiver and estoppel.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

18 FRESH START hereby incorporates by reference those affirmative defenses enumerated in
 19 FRCP 8 as if fully set forth herein. In the event further investigation or discovery reveals the

1 applicability of such defenses, FRESH START reserves the right to seek leave of the c=Court to
2 amend this Answer to assert the same. Such defenses are incorporated herein by reference for the
3 purpose of not waiving the same.

4 **WHEREFORE**, Defendant prays for judgment in its favor, costs, expert witness fees,
5 attorneys fees, and such other and further relief as the Court deems just and proper.'

6 Respectfully Submitted,

7 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

8 BY /s/ David B. Avakian
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16 Attorneys for Defendant sued as
17 NARCONON FRESH START
18 d/b/a RAINBOW CANYON RETREAT
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of LEWIS BRISBOIS BISGAARD & SMITH LLP and that on this 17th day of October, 2014, I did cause a true copy of the foregoing **DEFENDANT NARCONON FRESH START D/B/A RAINBOW CANYON RETREAT'S ANSWER** to be served via the CM/ECF electronic system to all parties on the service list.

By: /s/ Peggy Kurilla
An Employee of LEWIS BRISBOIS
BISGAARD & SMITH LLP